

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5999 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GOHEL JASHVANTSINH TAPUBHA

Versus

GUJARAT PUBLIC SERVICE COMMISSION

Appearance:

MR SR BRAHMBHATT for Petitioner

None present for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/09/97

ORAL JUDGEMENT

Heard the learned counsel for the petitioner and perused the special civil application.

2. Challenge has been made by the petitioner to the communication of the Gujarat Public Service Commission dated 28th December, 1984 wherein it has been informed to him that he is not possessing the requisite experience for the post of Assistant Regional Transport Officer. So

his application submitted for the post of Assistant Regional Transport Officer was rejected.

3. The G.P.S.C. invited applications for the post of Assistant Regional Transport Officer vide its advertisement which has been published in newspaper and last date of receipt of application was 20th November, 1982. The petitioner submitted his application in response to that advertisement and he has also been called for elimination test held on 30th April, 1984 but he was not called for the interview on the ground that he is not possessing the requisite eligibility for the post of Assistant Regional Transport Officer.

4. The petitioner filed on record of this special civil application the rules relating to the recruitment on the post of Assistant Regional Transport Officer which are known as the Assistant Regional Transport Officer Recruitment Rules, 1972. Rule 3 of the aforesaid Rules provide that, to be eligible for appointment by direct selection to the post aforesaid, a candidate must be not more than thirty five years of age, possesses a degree of a recognised University, preferably in Science or in Mechanical, Electrical or Automobile Engineering or an equivalent qualification; have practical experience of Automobile Engineering or Transport Administration for about two years after acquiring the requisite academic qualification. Certain other requisite eligibility has been provided for physique and vision.

5. There is no dispute that the petitioner was possessing all other eligibilities except that he was not found to have practical experience of Automobile Engineering or Transport Administration for about two years after acquiring the requisite academic qualification. Along with the special civil application the petitioner has not filed a copy of application which is submitted to the G.P.S.C. in response to the aforesaid advertisement nor he has produced on record a copy of certificate or other evidence enclosed thereto to show that he has the requisite experience as provided under the Rules aforesaid. On record of this special civil application the petitioner produced a certificate dated 30th July, 1984 i.e. of a date much after the last date which has been fixed by the Gujarat Public Service Commission for receipt of the applications. In the special civil application, the petitioner stated that after acquiring B.E. (Mechanical), he started working as a Junior Engineer in the Rajkot Municipal Corporation and the period of working was given to be from 18th March, 1982 to 1st May, 1983. The petitioner has very

conveniently not produced the order of his appointment on the post of Junior Engineer. In absence of any order of appointment it cannot be accepted that the petitioner has been appointed in Central Workshop of Rajkot Municipal Corporation. In Para-7 of the special civil application though the petitioner has stated that along with the application he had appended the certificate showing his experience qualification, but curiously enough copy of that certificate has not been produced. It is in the facts of the case and with reference to the document annexure 'F' there may be possibility that the petitioner would not have produced any certificate. The certificate of some officer of the Corporation of few months earlier to the rejection of the application of the petitioner is of no significance as such certificate can be procured at any time. The real requirement is that the petitioner should have practical experience of Automobile Engineering or Transport Administration and that could have been ascertained only from the appointment order of the petitioner. It is not the case that the petitioner would not have the appointment order with him of the post of Junior Engineer in the Corporation. The petitioner has deliberately not produced this document before this Court. It was a relevant and material document and non-production of same results in drawing an adverse inference that it goes against him. The best evidence has to be produced. The certificate of the nature as produced on record and that too of much later date of the last date of application can be procured at any time and no value to such certificate can be attached and more so where the petitioner has chosen not to produce the appointment order.

6. Taking into consideration the totality of the facts of this case, the petitioner is unable to satisfy this Court that he possesses the requisite experience for the post of Assistant Regional Transport Officer as required under the Rules, 1972. This writ petition is wholly misconceived and the same is dismissed. Rule discharged.

zgs/-